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## OREGON BULLETIN NO. OR210-2007-1

**SUBJECT:** Use of SLOPES Programmatic Biological Opinion

**PURPOSE:** This bulletin is to provide formal clarification and Oregon NRCS engineering requirements for Endangered Species Act (ESA) consultation through the Standard Localized Operating Procedures for Endangered Species (SLOPES) Programmatic Biological Opinion (BiOp).

**EXPIRATION DATE:** September 30, 2007

### Background

The July 8, 2003 SLOPES Programmatic Biological Opinion is an agreement between National Marine Fisheries Service (NMFS) and the US Army Corps of Engineers (USACE). This agreement allows certain in-stream activities to occur that address resource concerns such as streambank erosion and scour provided these activities include conservation practice components that avoid, minimize, or otherwise offset likely adverse effects to threatened or endangered species critical habitat and Essential Fish Habitat (EFH). Under SLOPES, those applications for proposed actions that the USACE finds to be within the range of effects considered in the July 8, 2003 Biological Opinion are issued a permit with terms and conditions and are not submitted to NMFS for additional consultation. Applications found not to be within this range of effects are submitted to NMFS for additional site specific ESA and Essential Fish Habitat (EFH) consultation.

By design, SLOPES serves as a fundamental forum for informal and formal consultation between NMFS, the Corps, and applicants for Corps permits regarding ways to reduce or remove the adverse effects of regulated actions on ESA-listed species, designated critical habitat, and EFH. It is not necessary to prepare a Biological Assessment (BA) for salmon and steelhead projects that are designed and installed using SLOPES terms and conditions but a BA is needed for all other species according to Oregon policy.

### SLOPES and the NRCS in Oregon

Simply stated; the SLOPES programmatic BiOp provides a vehicle for NRCS to implement certain in-stream practices without pursuing formal consultation with NMFS through the development of a BA or the issuance of a biological opinion. For the project to be accepted under the SLOPES programmatic BiOp the project requires a USACE/DSL permit and that the design meet the terms and conditions outlined within the SLOPES document. **Effective immediately, all projects implemented by the NRCS in Oregon under the following practice standards shall fully comply with the SLOPES terms and conditions for design requirements:**

- 1: PS 580, Streambank and Shoreline Protection
- 2: PS 560, Access Road (in-stream work only)

NRCS engineers responsible for the design of these practices should consult the SLOPES document to fully ensure that the terms and conditions have been met. Furthermore, the joint USACE/DSL fill and removal permit, and the construction planset should clearly state that the project was designed in accordance with the 2004 SLOPES Programmatic Biological Opinion. Engineers shall provide guidance to NRCS employees responsible for planning of these practices to ensure that the planning effort is commensurate with the SLOPES Terms and Conditions. SLOPES project documentation including the project name, funding source, species involved, and proposed implementation date will be forwarded, by email, to the State Fisheries Biologist.

### **In-Stream Activities That Don't Require a DSL/USACE Permit**

Projects that do not require a USACE/DSL permit (such as those installed under the Oregon Forest Practices Act) shall also be designed to meet the SLOPES terms and conditions. Under this scenario the project planner will submit a Biological Assessment (BA) to the State Fisheries Biologist for review and submittal to NMFS for Section 7 consultation related to salmon and steelhead and a BE or BA is still required for other threatened and endangered species, as per Oregon policy.

Questions related to the use or applicability of the SLOPES programmatic BiOp should be directed to the State Conservation Engineer, State Resource Conservationist or State Fisheries Biologist. Any changes to the SLOPES document will be transferred to the field offices through an amendment to this bulletin.

The SLOPES document can be downloaded from the Oregon NRCS homepage at:

<http://www.or.nrcs.usda.gov/technical/engineering/eng-notes.html>



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